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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,900	03/07/2006	Michael Weiler	022862-1083-00	1630
23409 7590 10/19/2010 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER				
GRAHAM, GARY K				
ART UNIT		PAPER NUMBER		
3727				
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10/19/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/570,900

**Applicant(s)**

WEILER ET AL.

**Examiner**

Gary K. Graham

**Art Unit**

3727

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3, 4 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6-9 and 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Applicant's election of figure 2 in the reply filed on 09 August 2010 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Objections***

Claim 4 is objected to because of the following informalities: In claim 4, line 3, it appears "a connecting part" should be ---the connecting part--- since such has been introduced in claim 1. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3, 4, 6-8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wahlberg (US patent 2,286,449) in view Kolb (US patent 3,893,204).

The patent to Wahlberg discloses the invention substantially as is claimed. Wahlberg discloses a wiper device for a motor vehicle (10). The device includes a wiper arm (30, 32) and a control unit (38,39) for controlling the position of a wiper blade (54) in relation to the wiper arm. The control unit features a different mechanical connecting part (38) to a body (18) of the vehicle (10) separate from the wiper arm, for controlling the position of a wiper blade (54) in relation to the wiper arm. The part (38) is considered as a second wiper arm since it is in elongated arm form. Such mechanical part acts to control the position of the wiper blade as claimed. A coupler (40), on which the blade (54) is rigidly connected, connects the connecting part to a free end of the wiper arm. The wiper arm and control unit each include a leaf spring element (32, 38) made of spring material which biases the wiper blade against the windshield (12) without articulation. Thus, the wiper arm and blade have a freedom of movement, towards and away from the windshield, achieved without articulation. The wiper arm is comprised of a fastening part (30) supporting wiper rod (32) without articulation.

The patent to Wahlberg discloses all of the above recited subject matter with the exception of the wiper arm and the connecting part being arranged one on top of the other in at least one operating position.

The patent to Kolb discloses a wiper device (figs.1,3) wherein a wiper arm (1) and control unit for controlling the position of a wiper blade (3) in relation to the wiper are provided. The control unit includes a different mechanical connecting part (2) to a body of a vehicle than the wiper arm. The wiper arm and the connecting part are connected on one free end of the wiper arm by a coupler (20) which rigidly supports a blade (3). Kolb further discloses that the wiper arm (1) and the connecting part (2) are arranged one on top of the other in a top view in at least one partial section and in at least one operating position (see fig.3).

It would have been obvious to one of skill in the art to provide the wiper arm and connecting part of the control unit of Wahlberg as one on top of the other in at least one partial section, as clearly suggested by Kolb, to reduce restriction to the field of vision of a driver.

With respect to claim 7, since the connecting part is of spring material, it is considered to have a flexible partial area. At least as far as defined.

With respect to claim 8, as the wiper arm is thickened (see fig. 2) toward the end distal to the wiper blade, it is considered to have a profile that reinforces.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wahlberg (US patent 2,286,449) in view Kolb (US patent 3,893,204), as applied to claims 1 and 8 above, and further in view of Jallet et al (US patent 6,739,018).

The patents to Wahlberg and Kolb disclose all of the above recited subject matter with the exception of the wiper arm having a spoiler profile in at least one area.

The patent to Jallet discloses forming a one-piece wiper arm (10,fig.2) with at least one area (20, S3, S4, S5) embodied as spoiler profile.

It would have been obvious to one of skill in the art to profile the wiper arm of Wahlberg as a spoiler along at least a portion thereof, as clearly suggested by Jallet, to enhance the performance of the arm by increasing downforce. Use of spoiler profiles on wiper arms and blades is well established.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wahlberg (US patent 2,286,449)I view of Kolb (US patent 3,893,204), as applied to claim 1 above, and further in view of Stevens (US patent 4,864,678).

The patents to Wahlberg and Kolb disclose all of the above recited subject matter with the exception of the wiper arm including a bistable partial area with a curved formation to achieve the freedom of movement without articulation from a working configuration via a reversing point into a folded-out position.

The patent to Stevens discloses the provision of a bistable partial area (12) with a curved formation (see fig. 3) in a wiper arm (1) to allow the wiper arm to be transferred essentially spring elastically via a freedom of movement achieved without articulation from a working configuration (solid line in fig.1) via a reversing point (17) into a folded-out position (18). The partial area enables toggle action of the arm to change the curved formation from facing away (from the windshield (5) in the working position to facing towards the windshield in the folded-out position (see fig.3).

It would have been obvious to one of skill in the art to provide at least the spring element of the wiper arm of the modified Wahlberg device with a bistable partial area therein, as clearly suggested by Stevens, to enable a stable folded-out position to be achieved thus enabling easy changing of the wiper blade. Stevens clearly suggests bistable partial areas for non-articulated arms to enable both working configurations and folded-out configurations.

Claims 1, 4, 7, 8 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (US patent 4,813,095) in view of Stevens (US patent 4,864,678).

The patent to Sato discloses the invention substantially as is claimed. Sato discloses a wiper device (10, figs.1,2) for a motor vehicle. The device includes a wiper arm (12) and a control unit for controlling the position of a wiper blade (18) in relation to the wiper arm. The control unit features a different mechanical connecting part to a body of a motor vehicle, said part in the form of a flexible pull wire (22) guided into a casing (24) which is located inside a wiper rod (see fig.1) of the wiper arm. Such mechanical part acts to control the position of the wiper blade as claimed. The wiper arm and the connecting part are arranged one on top of the other in a top view (note figs. 1, 5, 6).

The patent to Sato discloses all of the above recited subject matter with the exception of the arm having a freedom of movement achieved without articulation, which is capable of producing contact force. It is noted that Sato does not specify arm construction.

The patent to Stevens discloses all of the above recited subject matter, including that wiper arms can be constructed having a freedom of movement achieved without articulation, which is capable of producing contact force.

It would have been obvious to make the wiper arm of Sato as suggested by Stevens to have a freedom of movement achieved without articulation as well as a bistable partial area, which is capable of producing contact force, thus providing positive engagement of the blade with the windshield. Wiper arms constructed to achieve freedom of movement without articulation is well established.

With respect to claim 8, as the wiper arm is thickened (see fig. 5) toward the end distal to the wiper blade, it is considered to have a profile that reinforces.

### ***Response to Arguments***

Applicant's arguments filed 31 March 2010 have been fully considered but they are deemed moot in view of the above new grounds of rejection. As set forth above, Kolb clearly discloses the provision of the control arm on top of the wiper arm (see fig.3). Such provides for reduced obstruction to a user compared with the spaced arrangement of Wahlberg. Additionally, Stevens discloses the bistable partial area provision in wiper arms to enable a working configuration and a folded out configuration achievable without articulation. Sato discloses a wire pull within a casing usable as a control unit for controlling wiper blade position.



***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the publication to Weiler (WO 02/34588) in which a bistable partial area (38) in wiper arm (30) is disclosed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/  
Primary Examiner, Art Unit 3727

GKG  
15 October 2010